

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BRENDA K. HURSTON	:	CASE NO. C-1-01 313
Plaintiff	:	Magistrate Judge Black
-vs-	:	
BUTLER COUNTY DEPT. OF	:	<u>MOTION OF DEFENDANT BUTLER</u>
JOB AND FAMILY SERVICES,	:	<u>COUNTY DEPT. OF JOB AND</u>
ET AL	:	<u>FAMILY SERVICES FOR A REVISED</u>
	:	<u>SCHEDULING ORDER PERMITTING</u>
Defendants	:	<u>CONTINUED DISCOVERY</u>

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Now comes the defendant Butler County Department of Job and Family Services, by and through its undersigned counsel, and hereby moves this Court for a revised scheduling order permitting continued discovery for good cause shown should the Court grant either of plaintiff's motions for leave to file amended witness lists (Doc. Nos. 111 and 112). This motion is supported by the attached Memorandum.

Respectfully submitted,

McGOWAN & JACOBS, LLC

s/Jack C. McGowan  
Jack C. McGowan (0005619)  
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MEMORANDUM

Plaintiff filed her action on May 21, 2001. (Doc. 2) The Court entered an initial scheduling order on March 8, 2002 setting forth a witness list deadline of May 15, 2002 and a discovery deadline of October 1, 2002. (Doc. 29) There were some issues in discovery which resulted in a trial date in November, 2003. (Doc. 44, 64, 67, 72, 73, and 75) Plaintiff then moved for a jury trial. (Doc. 85) The Court continued the trial until June, 2004 trial term without ruling on the Motion for a Jury Trial. (Doc. 88) Defendant then filed a Response in Opposition to the Motion for a Jury Trial, (Doc. 90), and a Motion for Leave to File Motion for Summary Judgment, and Motion for Revised Scheduling Order, (Doc. 95). Plaintiff subsequently filed a Motion for Leave to File an Amended Witness List on June 14, 2004. (Doc. 102) On July 12, 2004, the Court granted plaintiff's Motion for a Jury Trial and Plaintiff's Motion for Leave to File an Amended Witness List setting a new discovery cutoff date of September 15, 2004 and a new dispositive motion cutoff date of October 15, 2004. (Doc. 110, pp. 3-4) Plaintiff subsequently filed a Motion for Leave to File an Amended Witness List on July 26, 2004 (Doc. 111), and another on September 10, 2004, (Doc. 112).

Depositions of certain people newly identified in plaintiff's Amended Witness List of June 14, 2004 accepted by the Court's July 12, 2004 Order were taken on August 26. As this Court has not

ruled upon plaintiff's additional motions for leave to amend her witness list, defendant has not attempted to take any depositions of those persons identified in plaintiff's proposed amended witness lists. As the discovery cutoff date has now passed, should plaintiff be allowed to amend her witness list, defendant requests additional time to complete discovery due to the late identification of witnesses by the plaintiff.

Fed.R.Civ.P. 6(b) provides for the enlargement of time period either prior to the expiration of the period in which the act is required or allowed to be done for cause shown. Fed.R.Civ.P. 6(b)(1). As noted above, the July 12, 2004 Order provided only two additional months for discovery to be completed on witnesses first identified by plaintiff just four weeks prior. Given that the newly identified witnesses were barely able to be deposed in the time permitted, if the Court permits plaintiff to identify additional witnesses beyond those already disclosed, cause exists to extend the discovery cutoff date. With an extended discovery cutoff date, defendant can complete discovery of the five new witnesses disclosed by plaintiff.

Should this Court grant plaintiff's motions, (Doc. 111 and 112), for leave to amend her witness list, this Court should also grant defendant's Motion for Revised Scheduling Order to permit an extended discovery cutoff and Motion for Summary Judgment deadline, providing a minimum of sixty days from the date of the Order to

complete said discovery plus a minimum of fifteen additional days after discovery is completed to file a Motion for Summary Judgment.

Respectfully submitted,

McGOWAN & JACOBS, LLC

s/Jack C. McGowan

Jack C. McGowan (0005619)

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the within Motion of Defendant Butler County Dept. of Job and Family Services for a Revised Scheduling Order Permitting Continued Discovery was mailed by certified mail, return receipt requested this 29<sup>th</sup> day of September, 2004 to Brenda Hurston, pro se, 1812 Grand Avenue, Middletown, OH 45044.

s/Jack C. McGowan